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6 Principal, Porgans and Associates

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8 **BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

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HEARING IN THE MATTER OF
CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
BUREAU OF RECLAMATION
REQUEST FOR A CHANGE IN POINT OF
DIVERSION/REDIVERSION FOR
CALIFORNIA WATER FIX

STATEMENT OF ISSUES PROPOSED TO
BE ADDRESSED IN CLOSING BRIEFS
FOR PART 1

10 Petitioner PATRICK PORGANS on behalf of PLANETARY SOLUTIONARIES submits this
11 Statement of Issues Proposed to Be Addressed in Closing Briefs for Part 1 of this hearing in response to the
12 Hearing Officers' ruling of 19 December 2016. The ruling invites parties to submit a concise statement of the
13 issues that they would like addressed at the end of Part 1, including and explanation why such issues would
14 more appropriately be briefed at the end of Part 1 rather than Part 2. The issues that PORGANS believes would
15 be appropriately addressed at the end of Part 1 rather than Part 2 are as follows:

16 **Issue Number I:** Would granting the Petition in effect require the issuance of a new water right?

17 Based upon a review of the State Water Board's (SWB) files there are questions that raise issues as to
18 whether the PETITIONERS, in particular, the U.S. Bureau of Reclamation have met the terms and
19 conditions imposed in permits issued by the SWB. In particular, did the Bureau provide the conveyance
20 canals to meet the water needs of those within the Area of Origin (where the water originates)? Details
21 pertaining to this issue is contained in PORGANS MOTION TO DISMISS submitted to the SWB.

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1 **Issue Number II:** Has the Bureau met the terms and conditions of their water right permits to provide for
2 salinity protection in the Delta?

3 According to SWB documents the Bureau has failed to provide the flow data or means required to
4 meet salinity objectives. Failure to comply has and continues to cause injury to private property and Public
5 Trust Resources. Therefore, it would be in the Public Interest for the SWB to include this information in a
6 brief.

7 **Issue Number III:** The Availability of Water in the Delta for SWP and CVP

8 SWB records also indicate that due to the inherent shortcomings of the federal Central Valley Project,
9 and the State Water Project, both dependent to some degree on the export of “surplus” water from the Delta,
10 which as witnessed, during this and previous drought events, was devoid of “surplus” water.

11 **Issue Number IV:** Compliance with the Terms and Conditions of the Bureau and DWR Permits

12 The Project operators’ statements that the CVP and SWP have been compliant with Delta water
13 quality protections contained in their respective permits 97 percent of the time requires vetting, as that
14 number is misleading. Compliance with Delta salinity protection does not always require the Projects to
15 release carriage water to meet Delta standards, it is during drought years that the violations tend to occur.
16 When questioned as to the validity of this compliance percentage (wet and drought years), the
17 PETITIONERS could not answer the question. During a 1993 SWB hearing, on this matter of the several
18 hundred violations of Delta standards, committed by the Bureau and DWR, the Board, opted not to take an
19 enforcement action against the DWR and the Bureau. Based on the SWB, DWR, and Bureau exhibits entered
20 into the record, they illegally impounded and diverted an estimated 500,000 acre-feet of water, valued at \$29
21 million. In this current drought the Bureau and DWR have resorted to exporting “abandoned” water flowing
22 through the Delta, and water realized from the mandatory 25 percent cutback in urban water users.

1 Attached to this correspondence is the Statement of Service.
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3 Respectfully submitted,

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Patrick Porgans
De Facto Public Trustee and Solutionist

4 *Patrick Porgans*

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7 **STATEMENT OF SERVICE**

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10 **CALIFORNIA WATERFIX PETITION HEARING**

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12 **Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

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14 I hereby certify that I have this day submitted to the State Water Resources Control Board
15 and caused a true and correct copy of the following document(s):

16
17 **STATEMENT OF ISSUES PROPOSED TO BE ADDRESSED IN CLOSING BRIEFS FOR**
18 **PART 1**

19 to be served **by Electronic Mail** (email), in parts due to server limitations, upon the parties listed in
20 Table 1 of the **Current Service List** for the California WaterFix Petition Hearing, dated November
21 15, 2016, posted by the State Water Resources Control Board at

22 [http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/se](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)
23 [vice_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

24
25 I certify that the foregoing is true and correct and that this document was executed on 29
26 January 2016.

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29 Signature: *Patrick Porgans*
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X

Patrick Porgans
Solutionist De Facto Public Trustee

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32 Party/Affiliation: Planetary Solutionaries
33 Address: P.O. Box 60940, Sacramento, CA 95860
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